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Factors that Influence the Withdrawal of Life Support in Nigeria: A Study in the Context of Religious Moral and Medical Ethics

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Abstract--*The debate has been ongoing about the moral, religious and ethical implication of active and passive euthanasia. Active euthanasia is where drugs or injections are used by doctors to hasten or terminate the life of their patient. Passive euthanasia, on the other hand, is withholding or withdrawing of life-saving treatment. to end the life of a patient. Many see the former as more unethical and immoral, while others see both as having the same moral and ethical implication. An interview was conducted to investigate the practice of euthanasia via withdrawal of life support in Nigeria.* ***Purpose****: The aim is to see what are the factors that influence the practice of active and passive euthanasia. The practice of euthanasia is illegal under the Nigerian law, but some factors may be responsible for practicing it.* ***Methodology:*** *Qualitative data is used to investigate the practice in Nigeria. A semi-structured interview is conducted with about six medical doctors in Nigeria. No more doctors were needed because saturation level was reached. The interview was audiotaped and transcribed without software aid because the respondents are not too many and the themes are limited. The research was approved by the Ethics Committee of the Aminu Kano Teaching Hospital in Nigeria.* ***Result:*** *In the research, it was found that doctors do not support the practice of euthanasia because of religious reason, but they tolerate passive euthanasia because of necessity especially the withdrawal of life support where a case is hopeless or due to limited facilities in the Intensive Care Unit. This is where there is the presence of a patient with reversible pathology.* ***Conclusion:*** *Nigerian doctors see active euthanasia as more unethical and immoral than passive euthanasia and the factors that influence it are rational.*

Key words--*Euthanasia, Passive, Active, Doctors, Ethics, Crime*

I. INTRODUCTION

Euthanasia is about the deliberate termination of the life of a terminally ill patient who is in excruciating pain without the hope of recovery to relieve him from such pain. (Goel, 2008) The concept of euthanasia is divided into two main categories, mainly: Active and Passive Euthanasia. The former involves the use of lethal drugs or injection to hasten death. While the latter is omitting to act in order to save a life or where the patient is on life support the withdrawal of such support to hasten the death of the patient (Somerville, 1993). The definition given by the World Health Organization (WHO) is adopted as the suitable meaning of euthanasia in this article. It provides that euthanasia means putting a patient to death intentionally or refusing to prevent the death of a patient by withdrawing or withholding treatment (World Health Organisation, 2004).

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Singer (1990) one of the leading supporters of euthanasia argued that there is no moral difference between passive and active euthanasia because both lead to the termination of life.

He argued that it is better to actively hasten death because the pain will be less compared to withdrawing life support where it takes a longer time to terminate the life and the suffering will not stop until death (Singer, 1990). By implication, if the essence is to relieve a patient from pain, it will be better to terminate the life within a short time than a long time. The other side of the argument is that in passive euthanasia the patient is dying from the natural consequences of his illness and nobody will morally be blamed for such death (Lachman, 2015). However, the decision in Airedale NHS Trust v. Bland in the United Kingdom ruled that such withdrawal amount to murder. In several occasions, court insists there is no difference between withdrawing and withholding of life support.

It is yet to be concluded whether the decision of the Nigerian Supreme Court in MDPDT v. Okonkwo (Medical and Dental Practitioners Disciplinary Tribunal v. John Emewulu Nicholars Okonkwo, LPPELR 1999(2001) on the right to refuse lifesaving treatment even where it could lead to death may include the permission of passive euthanasia i.e. withdrawal of life support on the request of the patient or his family. The reason being that passive euthanasia includes withdrawal and withholding of life-saving treatment the consequence of which is death. Just like the consequences of refusing lifesaving treatment as in the case of Dr. Okonkwo where the Court upheld the action of the doctor as part of the right of the patient to autonomy and religion. The basis of the decision is autonomy and self-determination as one form of human rights. The same right is the basis of withdrawal of life support on the request of the patient, which by necessary implication included in this decision (MDPDT V. Okonkwo) thereby violating the penal system. Some authors think the defense of necessity could be given to these doctors because they only withdraw life support when there is a patient with reversible pathology in dire need of such support (Osato, 2015).

Majority of health institutions have a section that deals with critical care patient, in some places call Intensive Care Unit. In the unit one will find life support machines, like, mechanical ventilators use for respiratory failure or even dialysis use for acute renal failure can be found. Sometimes the patient solely lives on feeding tube and other mechanical instruments to survive (Lachman 2015). In the majority of cases, the doctors find themselves in a very difficult situation to take or make an ethical judgment (Kehinde, 2015). Especially where the case becomes hopeless and the patient continues to suffer financial loss, social agony and a huge burden on the rest of the family. Although as it is discovered in this paper that some hospitals do away with the finances once the patient is placed on life support if he or the family cannot afford. This is despite the fact that sometimes with the extended kind of family setting in Nigeria, all family members come together to provide all necessary assistance to see to the end of the problem (Mary 2014). These supporting machines are obviously keeping the patient alive the withdrawal of which will lead to the death of the patient. Any such action is a crime under the Nigerian criminal justice system.

The objectives of this article is to examine the factors that influence the practice of euthanasia, whether, despite the illegality of such practice of withdrawing and withholding life support, Nigerian doctors do it anyway.

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II.METHODOLOGY

The study adopted qualitative methodology to examine the factors that influence the practice of euthanasia in Nigeria. Therefore, six medical doctors from different geopolitical zones in Nigeria were used as respondents. Two from each major ethnic group: Hausa, Igbo and Yoruba respectively. Most studies and available literature in this area use doctrinal methodology. However, empirical method to study the concept is adopted here. There is evidence indicating that a qualitative research can be done even with a single respondent because there is no number of respondents required to do this type of research. What is expected is that the respondents shall provide enough answer to a saturated level with a more valuable information.(Osato 2015) The questions were evaluated and approved by the Aminu Kano Teaching Hospital Ethics committee, Kano, Nigeria**.** A semi-structured interview is used to give the researcher the opportunity to ask further questions and clarifications. This approach is the world leading type of legal research method used to investigate the application of the law in relation to social phenomenon. The respondents were suggested by the chairman ethics committee of the institution (Aminu Kano Teaching Hospital). All the respondents are involved in the management of terminally ill patients and some of them are consultant at the Intensive Care Unit. Consent of all the respondents was obtained before the interview, which was audiotaped and the note was taken in order not to allow the important point to be omitted during the interview session. The respondent is numbered R1 to R6 for the purposes of analysis. Socio-demographic details of the respondents were taken. The transcription and the coding were manually done because the respondents are not many and the themes are limited. Documentary data is used in the course of this research. Therefore, Thematic analysis is adopted to analyse the data.

III. FINDINGS AND DISCUSSION

Doctors in Nigeria practice passive euthanasia because of inadequate facilities and bed space with mechanical technologies especially in the Intensive Care Unit where this problem is more recurring (Odubanjo 2011). By passive euthanasia, it means doctors only withdraw life support where the case is hopeless and there is another patient with reversible pathology who is in dire need of such support. This research reveals that after deliberation with the family the life support is withdrawn. The research also reveals that autonomy of the patient is not respected by ensuring what he wishes to do with his life at that stage, because in the west where such practice is liberalised it is done only if there is evidence either by advance directives or by any means that the patients did not want to be left on such life support machines or treatment. However, necessity accounts for the violation of the patient's autonomy.

It is the findings of this research that Nigerian doctors do not administer any lethal drugs or injection to hasten the death of their patients. This is generally the position and all the respondents confirmed this assertion. But Nigerian doctors do not see equality between the withdrawal of life support (passive euthanasia) and sending an agent to hasten death (active euthanasia). Majority of them could not believe that passive euthanasia is as bad as active euthanasia. But is settled that even withdrawal of life support is also euthanasia, although in many jurisdictions where euthanasia is illegal such practice of withdrawing life support is tolerated. The main issue is the intention of the action and the consequences.

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As the findings of this research shows that in some extreme situation doctors in Nigeria do withdraw life support of their patient. Below is the discussion of the factors that may influence such decision among doctors. The discussion is supported with view point of the respondents.

IV. FACTORS THAT INFLUENCE PASSIVE EUTHANASIA IN NIGERIA

The reason for the withdrawal of life support by Nigerian doctors leading to the death of their patient is a necessity. Although the defense of necessity under criminal law does not apply to any situation resulting in death, (*Penal Code, 2004*) the case of Nigerian doctors is a peculiar situation. The following are the factors influencing the practice:

1) Cost of Medical Care

Cost of medical care, especially at the end of life, is exorbitant even in the developed countries (Waweru-Siika et al., 2017). In Nigeria, most patients will rather retire back home and wait for death because they cannot afford the cost of the healthcare. Most diseases cut across regions and world over, but one of the determining factors for it being developed is good healthcare system. If the system is good, diseases no matter how pandemic will be tackled. Kidney disease, for instance, is a serious challenge in Nigeria (Ekechikwu, 2014). There is evidence that over 316 billion is required for dialysis every year as at 2014 (Ebun, 2014). Nigerian government cannot afford this number with 117 new prognoses every year. Only 76 dialysis units are available throughout the country, 42 public and 34 private. There are only 10 renal transplant units, 8 public and 2 private (Odubanjo, 2011). Most patients rely on family financial assistance. Those with poor background about 80% cannot afford three sessions of dialysis at 75,000 Naira per session, every week. This is one of the factors that influence the quest for euthanasia in the West to relief family from such burden because of the closer the illness come to the end the more expensive the cost of care even in the developed countries (Iyaniwura, 2014). How many patients can afford to stay in the critical care unit for a very long time living only with the assistance of machines like ventilators and feeding tubes? This is the reason once the doctors suggest to the family that this case is hopeless they give in to financial pressure. One of the respondents (R4) says:

"We explain to the relative of the patient the implication of the cost, on the relative the hospital, if they agree we withdraw it and that is why I said we do practice euthanasia, but we don't know we have been practicing it."

The respondent is expressing the necessity that makes doctors withdraw life support leading to the death of their patients. There is a serious doubt if in such situation a guilty verdict for murder can be obtained. It is a trite law that consent of terminating life will not be a defense. Therefore, the fact that the families' consent was sought and obtained notwithstanding, there will still be criminal responsibility.

2) Lack of Adequate Medical Facilities

This research is conducted at the Teaching Hospital own by The Federal Government of Nigeria. It has only four beds space at the Intensive Care Unit feeding more than 25 million people (Musa 2014). By every stretch

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of the imagination the facilities are inadequate and it will be a good justification for doctors to do what they do under the certain critical situation. Imagine 50 patients from a bus accident requiring intensive care attention and the facilities are not available. Doctors will adopt their guiding principle of triage to sample who can survive with some level of intervention to save his life (Dominic 2014). A professor of medicine who is one of the respondents in this research stated his experience in a situation like this:

"I have two patients, one has acute injury that has the chance of recovery in the next 24 hours if we admit him and do some procedure and another patient with advance cancer that has damaged must of his organs, as human I cannot say this guy has no probability of surviving because God can do anything , but if I have a choice, I will choose the one that can recover, but if that one that may not survive is already on the bed, if I substitute them reasonably I am doing something good, but still the ethics do not allow me to do so, so in the event it comes it will assist in some few situation like this to save live, though that may or may not be euthanasia"

The respondent is suggesting that providing some guiding principles in the critical care not necessarily in the name of euthanasia will guide medical practice and will assist in saving lives. As the respondent said most doctors face the problem of ethical judgment some doctors involve the family of the patient to withdraw the life support although even at that stage they are not guaranteed any defense to criminal responsibility or professional misconduct. Should the family turn back and complain after consenting for the withdrawal a serious ethical and legal issue will arise.

3) Religious and Cultural Reasons

Culture and religion play a vital role in every aspect of human life in Nigeria and Africa in general (Odia, 2014). These two influence health care issues especially on the question of life and death. Research (Andriy Danyliv, 2015) has shown that people with strong religious conviction will not accept the practice of euthanasia and their religious conviction makes them believe that no matter how critical the situation is, God can do his miracle. Therefore, they are not in the position to say a particular patient will or will not survive his illness. Beside both most dominant religion in Nigeria (Islam and Christianity) vehemently opposed euthanasia, although some level of passive euthanasia is tolerated as in the case in this research (Yount, 2007). Where a patient remains in a hopeless and irreversible pathology and the life support only keeps him in a semi-death situation, all religions accept that such support could be withdrawn. Respondent number 3, a consultant holds this view:

"No, I don't practice Euthanasia. This is due to influence of religion and culture. I am a Christian and bible prohibit me from terminating life. If I do it I will be punished in the hellfire. Euthanasia like abortion I don't do it. However, we practice passive euthanasia inform of withdrawal of life support when the case becomes hopeless or where we give pain-relieving drugs that have the side effect of hastening death. There is nothing one can do necessity demands doing so."

Only one among all the respondents agree to perform euthanasia despite his religious conviction. He believes it is the only option in certain situations. However, for the above respondent religion plays a more serious role in his practice than medical ethics. Even in the countries that legalised euthanasia the practice is more

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performed by atheist doctors than Christians or Muslims (Dorothy, 2013). Another research conducted in South Africa shows that European are more likely to accept euthanasia than African (Nortje, 2013). Reason being that African do not have the culture of relinquishing the control of their lives to another person and by their culture, they have a social family structure that gets all members of the family involved in decision making about what affect every member of the family. The question of autonomy or self-determination is not being put into consideration, everything is done together with others including the question of life and death (Nortje, 2013).

4) Organ Harvesting

Many scholars include in their argument in support of euthanasia by saying that it is a good avenue to provide organs for those in dire need of them. It is the argument that lives could be saved if the law permits this practice so that patient having hopeless and irreversible pathology could allow their organs to be harvested for the purposes of helping other patients (Sakali, 2013). The root of the argument is that patients in the permanent vegetative state shall not be considered as a person because they lost all the qualities of social being and they do not belong to the moral community. Therefore the only way society could benefit from them is by having their organ donated to those who need it. It was observed that the practice in Belgium is used to harvest good quality organs from euthanasia patient (Cook, 2011). One of the respondents in this research shares the same view with the above argument that organ could be harvested to help others to survive especially for those in the permanent vegetative state. However, one important issue that must be addressed is at what point can one be said to be ready for organ donation? In essence determination of death is a serious issue in determining when is the case said to be irreversible or permanently irreversible. In Nigeria, brains stem death is what is theoretically considered as the determinant of death, but in practice, irreversible cessation of the cardio-respiratory function is usually the case.

5) Quality of Life

Many scholars see lack of quality of life as a good ground for euthanasia; sometimes it is seen as a medical duty on physicians to withdraw all treatments and other life-supporting machines (Bryan, 2000). Quality of life is a serious issue that affects the patient's family and his care attendants. However, judging the quality of life of an individual is subjective and a very difficult task, because, what may be of good quality to one party may not be good to the other party. Jonsen (1998) had proposed two ways to measure the quality of life of a terminally ill patient, personal evaluation and observer evaluation. This means that quality of life can be measured by the patient himself or a third party as an observer. It is observed that quality of life can change any moment with the influence of economic condition not necessarily by the actual life experience of the patient. Therefore, quality of life is not only determined by social mobility but physical mobility, freedom from pain and distress, the capacity to perform daily life activities. These situations normally happen where the prognosis is hopeless and medical interventions would amount to a fruitless attempt to save the life of the patient. The doctors can withdraw even though it is very well known to them that their omission or acts will result in the death of the patient, and the legal community will not regard it as unlawful. This can only be the position where the practice is accepted and recognised. In Nigeria, the legal framework does not support the practice of such withdrawal. Quality of life is an acceptable justification for doctors only where the patient lost social being because of being vegetative. Although in Nigeria life support is not

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withdrawn because the quality of life is low, it is withdrawn because of the serious need of the facilities and the management of the case becomes hopeless, as revealed by the respondents.

V. POSITION OF THE CRIMINAL LAW IN NIGERIA

Euthanasia is illegal under the Nigerian criminal justice system (Ebun 2014). The law does not differentiate between passive and active euthanasia. Any act of hastening death whether by omission or action one will risk murder charges as contemplated by both the provision of Penal Code and the Criminal Code.

S. 220 Penal Code: Whoever causes death-

(a) by doing an act with the intention of causing death or such bodily injury as is likely to cause death; or
(b) by doing an act with knowledge that he is likely by such act to cause death; or
(c) by doing a rash or negligent act, commits the offence of culpable homicide.

In section 311 of the Criminal Code provides:

"A person who does any act or makes any omission which hastens the death of another person who, when the act is done or the omission is made is labouring under some disorder or disease arising from another cause is deemed to have killed that other person."

The above section of the Criminal Code made it clear that euthanasia by whatever means is a crime, especially by omitting to render assistance to the patient who is labouring under some disorder or disease. However, this study reveals that passive euthanasia is practiced by Nigerian doctors. This position is confirmed by the respondent number 2 in this research:

We explain to the relative of the patient the implication of the cost, on the relatives and the hospital, if they agree we withdraw it and that is why I said we do practice euthanasia, but we don't know we have been practicing it. I am a Muslim I know 99.99% of Islamic principles are based on the inner conscious, knowing whether what you are doing is the right thing to do or not, I know there is no need to allow this patient on this machine, it help the nation by saving its resources, the other patient coming in may benefit from the resources, but because of illiteracy people will not understand.

This respondent suggesting that there is justification for the withdrawal of life support because it is done with the consent of the family of the patient. The fact that family of the patient are involved does not change the position of the law for the action to be illegal and a violation of the right of the patient. Beside consent is not a defense to any criminal responsibility as provided by both the Penal Code and Criminal Code. The Penal Code provides thus: 'Consent by a person to the causing of his own death does not affect the criminal responsibility of any person by whom such death is caused'

So, by the provision of the criminal laws consent whether or not from the patient or the family will not be an excuse. The fact that sometimes doctors do things believe to be the best interest of their patient yet, such will not be a defense. In the developed countries, patient give advance directives and state they wish to be treated in case such as this. However, in Nigeria advance directives is not recognised by law because it will not be an excuse from

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criminal responsibility or professional misconduct (Rules 68). One will argue that the blame if at all there shall be one, is supposed to be on the government that refuses to provide enough facilities. As doctors their duty is to save life, but where they find themselves in such a dilemma and the best thing for them to do is to apply their ethical judgment. However, their ethical judgment shall not be in violation of the law (Salihu, 2018). The situation is very difficult because the legal framework is inadequate to address the situation (Michael 2010). In relation to Intensive Care Unit some patients have reversible pathology while some their condition is hopeless and unrecoverable, it will also be a necessity to use professional judgment in saving the life of the patient who may likely recover and survive his illness.

Therefore, it is the recommendation of this paper that the legal framework has to be amended to give doctors absolute control over situation like this. The expectation is that they will use their expertise to salvage the situation.

VI. CONCLUSION

Some scholars investigated the practice of euthanasia in the countries that legalised and those that did not. The result indicated that those who legalised have lesser violation of abuse through euthanasia because at least rules are provided and some level of control is ensured. However, where euthanasia remains illegal it is done behind closed doors and there are no chances of setting rules and regulation for to ensure control. This reason triggered this research work, to find out whether euthanasia is being practiced in Nigeria. This paper use interview method where some of the actors in the field of medical practice were interviewed. Surprisingly the practice does happen, but not in form of active euthanasia where agents are used to hastening the death of terminally ill patients. The practice here is passive euthanasia which includes withholding and withdrawing of life support, although the reason is lack of facilities and the fact that some patients require the facilities more than others. Therefore, this gives doctors the conviction to apply these techniques to save lives of patients with more chances of survival. One thing for sure is that Nigerian Supreme Court recognised the right to refuse lifesaving treatment even if it could lead to death, but it is not clear whether withdrawal of life support leading to death if the conviction for murder could be obtained against Nigerian doctors.

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